



Paper No. 10

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**SPECIAL PROGRAMS OFFICE
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In re Application of
Peter Van Voris et. al.
Application No. 08/771,467
Filed: December 20, 1996
Attorney Docket No. B-1075-F2C2

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 1999, to revive the above-identified application.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final rejection of December 22, 1997, within the time period for reply. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and fee required by law), an amendment that prima facie places the application in condition for allowance, or the filing of a continuing application. Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal and requisite fee, the filing of a continuing application or a request under 37 CFR 1.129(a), if appropriate.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

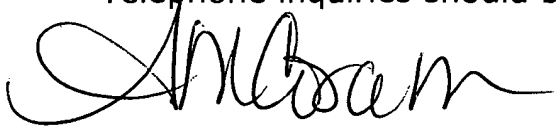
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
 Box DAC
 Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
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Telephone inquiries should be directed to Andrea Coram at (703) 308-6711.



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